

1 GLYNN & FINLEY, LLP  
2 ADAM FRIEDENBERG, Bar No. 205778  
3 JONATHAN A. ELDREDGE, Bar No. 238559  
4 One Walnut Creek Center  
5 100 Pringle Avenue, Suite 500  
Walnut Creek, CA 94596  
Telephone: (925) 210-2800  
Facsimile: (925) 945-1975  
E-mail: afriedenberg@glynnfinley.com  
jeldredge@glynnfinley.com

6  
7 Attorneys for Defendant  
ConocoPhillips Company

8 BLEAU FOX, A P.L.C.  
THOMAS P. BLEAU, Bar No. 152945  
9 GENNADY L. LEBEDEV, Of Counsel, Bar No. 179945  
3575 Cahuenga Boulevard West, Suite 580  
10 Los Angeles, CA 90068  
Telephone: (323) 874-8613  
11 Facsimile: (323) 874-1234  
Email: bleashark@aol.com  
12 glebedev@bleaufox.com

EDS:SOA:EDJ:JFE

13 Attorneys for Plaintiffs

14

15 UNITED STATES DISTRICT COURT

16 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

17

18 *In re: ConocoPhillips Co. Service Station* ) Case No. M:09-cv-02040-RMW  
19 Rent Contract Litigation ) **JOINT STIPULATION TO SEVER MDL**  
20 ) **CASE AND JUDGMENT**  
\_\_\_\_\_  
)

21 WHEREAS, on April 13, 2011, the Court granted ConocoPhillips' Motion to Dismiss the  
22 Second Amended Complaint (Docket No. 98), dismissing Plaintiffs' First, Second and Third  
23 Claims without leave to amend, but granting twenty days leave to amend as to other claims.

24 WHEREAS, on April 20, 2011, Plaintiff, NRU INC. filed an amended complaint,  
25 asserting a Fourth Claim for Relief for Violations of California Business and Professions Code  
26 §21140, et seq. and a Fifth Claim for Relief for violations of California Business and Professions  
27 Code §17200 (Docket No. 100).

28

1 WHEREAS, on May 23, 2011, ConocoPhillips filed its Answer to NRU's amended  
2 complaint (Docket No. 102).

3 WHEREAS, the MDL plaintiffs intend to appeal the Court's Order dismissing their MDL  
4 claims. Consequently, the parties believe that the MDL claims that were dismissed pursuant to  
5 the Court's April 13, 2011 Order (Docket No. 98) should be severed from NRU's individual  
6 claims (Docket No. 100) and that Judgment be entered on those MDL claims, which are distinct  
7 from NRU's individual claims.

8 WHEREAS, ConocoPhillips intends to bring a motion for attorneys fees and costs  
9 incurred with regard to the dismissed MDL claims.

10 IT IS NOW THEREFORE STIPULATED by and between all of the parties to this action,  
11 by and through their respective counsel of record that:

12           1. The MDL claims may be severed from NRU's pending claims;

13           2. Judgment in ConocoPhillips' favor may be entered on the dismissed MDL claims;

14           3. ConocoPhillips' last day by which to bring a motion for attorneys fees and costs

15           incurred in connection with the dismissed MDL claims shall be 30 days after entry of judgment

16           on the MDL claims;

17           4. The Plaintiffs reserve the right to oppose ConocoPhillips' intended motion for

18           attorneys fees and costs on any and all grounds that may apply, except that Plaintiffs agree not to

19           oppose such motion for attorneys fees and costs on the grounds that ConocoPhillips must wait

20           until final judgment of NRU's remaining claims.

21 Dated: September 16, 2011

## GLYNN & FINLEY, LLP

By /s/ Adam Friedenberg  
Attorneys for Defendant  
ConocoPhillips Company

24 Dated: September 16, 2011

## BLEAU FOX, A P.L.C.

By /s/ Thomas P. Bleau  
Attorneys for Plaintiffs

1 2 3 4 5 6 7

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

14 By Order dated April 13, 2011, the Court granted Defendant, ConocoPhillips Company's  
15 ("ConocoPhillips") Motion to Dismiss the Second Amended Complaint (Docket No. 98),  
16 dismissing Plaintiffs' First, Second and Third Claims (the "MDL Claims") without leave to  
17 amend, but granting twenty days leave to amend as to other claims. On April 20, 2011, Plaintiff,  
18 NRU INC. filed an amended complaint, asserting a Fourth Claim for Relief for Violations of  
19 California Business and Professions Code §21140, et seq. and a Fifth Claim for Relief for  
20 violations of California Business and Professions Code §17200 on behalf of itself only (Docket  
21 No. 100) ("NRU Claims"), which claims are distinct from the "MDL" claims that have been  
22 dismissed pursuant to the Court's April 13, 2011 Order (Docket No. 98).

23 Therefore, pursuant to Stipulation by and between all parties to this action and for good  
24 cause, the Court hereby ORDERS, ADJUDGES AND DECREES that:

1                   3. ConocoPhillips shall have thirty (30) days from entry of this Judgment to file  
2                   a motion for attorneys fees and costs incurred in connection with the  
3                   dismissed MDL Claims.

4                   IT IS SO ORDERED.

5

6                   Dated: JEG, 2011

By: Ronald M. Whyte  
7                   The Honorable Ronald M. Whyte  
8                   United States District Judge

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28